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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,934	11/16/2001	Gregory L. Heacock	13421US01	2885

7590

02/03/2004

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EXAMINER

MANUEL, GEORGE C

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 02/03/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,934

Applicant(s)

HEACOCK, GREGORY L.

Examiner

George Manuel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-44 and 71 is/are allowed.
- 6) ☒ Claim(s) 45-49, 51-64, 66 and 68-70 is/are rejected.
- 7) ☒ Claim(s) 50, 65, 67 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. ***Claim Rejections - 35 U.S.C. § 112***

2. Claims 62 and 69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 62 and 69 are indefinite because the language “less than or approximately equal to” makes it unclear whether the thickness can be “greater than” because “slightly greater than” is “approximately equal to.”

3. ***Claim Rejections - 35 U.S.C. § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

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5. Claims 58-64, 66, and 68 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Volk '073.

Regarding claims 58 and 64, the examiner is interpreting surface 184 to be a "positive first surface" and surface 182 to be a second surface that magnifies the real image.

Claim Rejections - 35 U.S.C. § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 45, 46, 51-53-57, 69 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Volk '073 in view of Rozenman '753.

Volk shows all of the claimed features except for an enclosing package. Col. 17, lines 59-60 teach the lens may be formed of polymethylmethacrylate. Further, it is inherent the field of view for the lens is greater than 60 degrees because Volk teaches the lens provides a wide field of

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view and this is known in the art to be of an order greater than 60 degrees. Fig. 30 shows a real image formed in a second lens.

Rozenman discloses a packaging enclosure for keeping a lens sterile.

One of ordinary skill in the art would have found it obvious to use the packaging enclosure of Rozenman to enclose the lens of Volk because the packaging teaching of Rozenman applies to a contact lens of the type disclosed by Volk.

Regarding claim 69, Volk teaches lenses 130 and 180 are less than 13 mm. Based on the radius of curvature and index of refraction for lens 110, one of ordinary skill in the art would have found it obvious to limit the thickness of lens 110 to less than 13 mm.

7. Claims 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Volk '073 in view of Rozenman '753 and further in view of Deeg et al '792.

Volk in view of Rozenman show all of the claimed features as described above except for the lens holder formed of acrylic, styrene, or polycarbonate.

Deeg et al teach acrylic, styrene, or polycarbonate are common materials for ophthalmic lens holding. Therefore, one of ordinary skill in the art would have found it obvious to form the lens holder of Volk of acrylic, styrene, or polycarbonate.

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Allowable Subject Matter

8. Claims 50, 65 and 67 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


9. Claims 1-44 and 71 are allowed.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Manuel whose telephone number is (703) 308-2118. The examiner can normally be reached on Mon.- Fri., 9:00-5:00.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306 for regular communications and for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


George Manuel
Primary Examiner
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January 30, 2004